

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE

☐

January 07, 2015

☐

2013-119-S

☒

ORDER NO.

SUBJECT:

[DOCKET NO. 2013-119-S](#) - Robert B. Farmer - RBF Enterprises, LLC d/b/a McDonald's, Complainant/Petitioner v. Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities, Defendant/Respondent - Discuss with the Commission the Petition for Rehearing and Reconsideration Filed on Behalf of the Complainant/Petitioner.

COMMISSION ACTION:

The Petition for Rehearing and Reconsideration filed by RBF Enterprises, LLC d/b/a McDonald's results from our dismissal of its Complaint against Palmetto Wastewater Reclamation d/b/a Alpine Utilities ("PWR"). RBF's Complaint stems from a rate increase approved in Docket No. 2012-94-S. I move that we deny this Petition.

Although RBF had notice of the possible rate increase and an opportunity to intervene in the case and present facts prior to a decision, it was not a party to that Docket. Months after the Order was issued in Docket No. 2012-94-S, RBF filed a Complaint under the present Docket attempting to introduce additional facts so the Commission could reconsider the formula used to calculate the company's bill in light of how the rate increase affected its particular business. A letter attached to the Complaint also sought a refund with interest.

On a Motion from Palmetto Wastewater Reclamation that also requested the Commission consider the matter without oral argument, we dismissed the Complaint because it failed to allege any matter cognizable under South Carolina Code Annotated § 58-5-270. As stated in the Motion to Dismiss, RBF did not allege any fact demonstrating the utility had done anything prohibited by the laws governing the Commission, or omitted doing anything required by those laws that would entitle it to relief. Further, RBF was not a party to the original Docket and therefore not entitled to reconsideration in Docket No. 2012-94-S. In addition, the time for reconsideration had passed, the rate was validly approved, and the Commission did not and does not have the discretion to retroactively reduce valid rates.

Now in its Petition for Rehearing and Reconsideration, RBF argues that the ruling dismissing the Complaint was issued without any opportunity for the Complainant to be heard on the matter. This allegation is without merit. The Motion to Dismiss specifically requested that it be considered without oral argument. Further, although RBF emphasizes the provisions of Regulation 103-829(B), these provisions must be read in concert with those found in Regulation 103-829(A), which allows written Motions, Responses to Motions, and Replies to Responses to Motions. In this case, the Commission received a Motion to Dismiss, a Return to Motion to Dismiss, a Reply to Response to Motion to Dismiss, and a Petition for Rehearing and Reconsideration. Accordingly, it is evident by these filings that RBF had a full opportunity to be heard through its filings, and no hearing on the Motion to Dismiss was required, especially since the written filings clearly showed that the Complainant was not entitled to any relief.

Moreover, I also move that we specifically find that we impliedly waived the provisions allowing oral arguments in granting the Company's Motion to Dismiss, and hereby expressly waive these provisions in this Motion pursuant to Commission Regulation 103-803. Waiver of the oral argument provisions of Regulation 103-829(B) is appropriate in this instance, and it is not contrary to the public interest to

forgo oral argument or hearing when relief cannot be granted in any event based on the Petitioner's pleadings. Again, I move that the RBF Petition be denied.

PRESIDING: Hall

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
ELAM	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

(SEAL)

RECORDED BY: J. Schmieding

